

## **REMARKS**

Claims 1-70 are pending in the application. Claims 9, 17-20, 26, and 41 have been amended, and claims 42-70 have been withdrawn pursuant to a restriction requirement. No new matter has been introduced by the amendment.

### **Claims Objections**

Claims 20, 26 and 41 have been objected to for containing inadvertent spelling errors and an unspecified abbreviation. These objections are addressed by amendment of claims 20, 26 and 41.

In view of the amendment of claim 26, the specification has been amended to state the full chemical name for the abbreviation "CPC."

Also, although not part of the instant claim objection, claim 9 has been amended to correct an inadvertent misspelling of the word "starches."

### **Rejection Under 35 U.S.C. §112, Second Paragraph**

Claims 17-19 have been rejected for allegedly being vague with respect to the content of the claimed composition. This rejection is overcome in view of the amendment of claims 17-19 in which "Magnolia Bark Extract" has been replaced by the term "antimicrobial agent." The applicants respectively assert that claims 17-19 are definite with respect to the component concentrations of the claimed composition. Claims 17-19 are now structured similar to other dependent claims that recite particular compounds and weight percentages for the claimed film forming agent.

### **Rejection Under 35 U.S.C. §103(a)**

Claims 1-41 have been rejected over Barkalow et al. in view of Nanba et al. and Scherl et al. This objection is believed overcome in view of the following remarks.

Section 103(c) provides, in part, that "subject matter developed by another person, which qualifies and prior art only under ... subsections (e)... of section 102 ... shall not preclude patentability under this section where the subject matter and the claimed invention where, at the time the invention was made, owned by the same person . . . ." 35 U.S.C. § 103(c).

The applicants respectively assert that Barkalow et al. falls within the prior art exception provided by Section 103(c). The applicants attach herewith a Patent Assignment Abstract of Title from the assignment division of the USPTO. As noted in the Abstract of Title, Barkalow et al. assigned their rights to Wm. Wrigley Jr. Company in October of 2001. Accordingly, Barkalow et al. was owned by the same person as the instant application as of the June 25, 2002 priority date of the instant application. Accordingly, the applicants respectively request withdrawal of Barkalow et al.

The applicants respectively assert that the remaining references Nanba and Scherl et al. do not suggest or disclose the applicants' claimed invention at least because neither reference suggests or discloses a pullulan-free edible film.

Claims 1-41 have also been rejected over Dzija et al. in view of Nanba et al. and Scherl et al. This rejection is overcome in view of the following remarks.

The applicants respectively assert that Dzija et al. also qualifies under the exception provided by Section 103(c). The applicants attach herewith a Patent Assignment Abstract of Title from the USPTO showing that Dzija et al. assigned their rights in September of 2001 to Wm Wrigley Jr. Company. Accordingly, Dzija et al. was owned by the same person as the instant application as of its June 25, 2002 priority date.

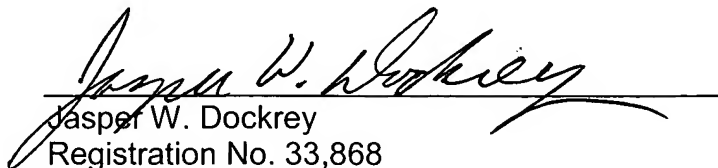
The applicant's foregoing remarks with respect to the remaining references are incorporated by reference herein.

### **Double Patenting**

Claims 1-41 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting. This rejection is overcome in view of the accompanying Terminal Disclaimer together with the applicant's previous remarks with respect to Nanba and Scherl et al., which are incorporated by reference herein.

The applicants have made novel and non-obvious contribution to the art of edible film formulations. The claims at issue are distinguished over the cited references and are in condition for allowance. Accordingly, such allowance is now earnestly requested.

Respectfully submitted,

  
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